SENATE BILL No. 722

Introduced by Senators Simitian, Kehoe, and Steinberg

February 27, 2009

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of the Public Resources Code, and to amend Sections 399.2.5, 399.11, 399.12, 399.17, and 454.5 of, to amend and renumber Section 399.16 of, to amend, renumber, and add Section 399.13 of, to add Sections 399.16, 399.18, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14 and 399.15 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

SB 722, as amended, Simitian. Utilities: renewable energy resources. (1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the
state’s 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a “public goods charge.” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury, and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program, and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified
minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation’s obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2012, 2013, and 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity generated by products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity generated by products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The bill would authorize the PUC to permit a retail seller to delay compliance with a waiver the imposition of penalties associated with the renewables portfolio standard procurement requirement if the PUC finds that the retail seller has demonstrated that certain conditions exist that are beyond the control of the retail seller and will prevent timely compliance, has made material progress towards meeting the applicable renewables portfolio standard procurement requirement, and has taken all reasonable actions under its control to remove impediments to full compliance. The bill would require the PUC to direct each electrical corporation to annually prepare a renewable energy
procurement plan containing specified matter and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The bill would require the commission to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions, and instead require the PUC to establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. The bill would require that by January 1, 2016, the PUC report to the Legislature assessing whether each electrical corporation can achieve a 33% renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the cost limitations. The bill would provide that, if the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation is authorized to refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without increasing ratepayer costs relative to the procurement of conventional energy resources. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource, and would require the PUC to approve the application if certain conditions are met, until electrical corporation owned and operated resources provide 8.25% of the corporation’s anticipated retail sales.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime. Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.
This bill would repeal this provision, and instead generally make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities, except that the utility’s governing board would be responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities would be given to the Energy Commission and State Air Resources Board, instead of the PUC. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006 or other laws if that act is suspended or repealed.

The bill would require a local publicly owned electric utility to procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) until December 31, 2011, the same percentage as actually achieved by the utility during 2009; (B) 20% by December 31, 2012; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020. The bill would provide that the local publicly owned electric utility retains discretion with respect to certain matters in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers.

(5) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an
This bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, (G) any changes in the prior year in load serviced by an electrical corporation, and (H) the efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce.

(6) The bill would require the Energy Commission PUC, by July 1, 2011, to update previously conducted studies relating to determining the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory
Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances. The bill would require the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard. The bill would require the PUC to provide assurance of the eligibility for recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of transmission facilities in certain circumstances and to allow recovery in retail rates of any increase in transmission costs if not approved by the Federal Energy Regulatory Commission if the PUC determines the costs were prudently incurred pursuant to a specified law.

(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO’s tariffs are required to be approved by the FERC.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and
dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and merchant transmission companies.

(10) This bill would appropriate $322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


The people of the State of California do enact as follows:

SECTION 1. Section 705 is added to the Fish and Game Code, to read:

705. (a) For purposes of this section, “eligible renewable energy resources” has the same meaning as in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(b) The department shall establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(c) The internal division shall ensure the timely completion of plans pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3).

SEC. 2. Section 25740 of the Public Resources Code is amended to read:

25740. The Legislature finds and declares that the State Air Resources Board has identified a statewide 33 percent renewables portfolio standard as a key measure to comply with the requirements of the California Global Warming Solutions Act of 2006. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible
renewable energy resources per year, so that it equals at least 33 percent of total retail sales of electricity in California per year by December 31, 2020.

SEC. 3. Section 25740.5 of the Public Resources Code is amended to read:

25740.5. (a) The commission shall optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued.

(b) The commission’s long-term goal shall be a fully competitive and self-sustaining supply of electricity generated from renewable sources.

(c) The program objective shall be to increase, in the near term, the quantity of California’s electricity generated by renewable electrical generation facilities located in this state, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(d) An additional objective of the program shall be to identify and support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance.

(e) The Legislature recommends allocations among all of the following:

(1) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.

(2) Customer education.

(3) Production incentives for reducing fuel costs, that are confirmed to the satisfaction of the commission, at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including improved air quality.

(4) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the commission. The commission may require financial disclosure from applicants for purposes of this paragraph.

(5) Specified fuel cell technologies, if the commission makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the report made pursuant to Section 25748.
(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.

(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of electricity generated from renewable sources.

(6) Existing wind-generating resources, if the commission finds that the existing wind-generating resources are a cost-effective source of reliable energy and environmental benefits compared with other renewable electrical generation facilities located in this state, and that the existing wind-generating resources require financial assistance to remain economically viable. The commission may require financial disclosure from applicants for the purposes of this paragraph.

(f) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

SEC. 4. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following meaning:

(a) “Procurement entity” means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (g) of Section 399.13 of the Public Utilities Code.

(b) (a) “Renewable electrical generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:
(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network of a balancing authority area primarily located within the state. For purposes of this subparagraph, “balancing authority area” has the same meaning as defined in Section 399.12 of the Public Utilities Code.

(B) The facility has its first point of interconnection to the transmission network outside the state, within the Western Electricity Coordinating Council (WECC) service area, and satisfies all of the following requirements:

(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

(ii) It commences initial commercial operation after January 1, 2010.

(iii) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(iv) It participates in the accounting system to verify compliance with the renewables portfolio standard once established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), and (iv) of subparagraph (B), but does not meet the requirements of clause (ii) (i) of subparagraph (B) because it commenced initial operation prior to January 1, 2010, if the facility satisfies either of the following requirements:

(i) The electricity is from incremental generation resulting from expansion or repowering of the facility.

(ii) Electricity generated by the facility was procured by a retail seller or local publicly owned electric utility as of May 31, 2009.

(3) Any existing landfill gas facility approved by a publicly owned electric utility prior to September 16, 2009, as a renewable electric generation facility shall continue to qualify as a renewable electric generation facility.

(4)
(3) If the facility is outside the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(b) “Municipal solid waste conversion,” as used in subdivision (a), means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 38505 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, “local agency” means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.
"Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

"Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

"Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 5. Section 25742 of the Public Resources Code is amended to read:

25742. (a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing renewable electrical generation facilities located in this state, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007–2011 investment cycle. Eligibility for production incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section 25740.5.

(b) Any funds used to support renewable electrical generation facilities located in this state pursuant to this section shall be expended in accordance with the provisions of this chapter.

(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:

(1) Is sold at monthly average rates equal to, or greater than, the applicable target price, as determined by the commission.

(2) Is used onsite.
(d) (1) Existing facilities located in this state generating electricity from biomass energy shall be eligible for funding and otherwise considered a renewable electrical generation facility only if they report to the commission the types and quantities of biomass fuels used.

(2) The commission shall report the types and quantities of biomass fuels used by each facility to the Legislature in the reports prepared pursuant to Section 25748.

(e) Each existing facility seeking an award pursuant to this section shall be evaluated by the commission to determine the amount of the funds being sought, the cumulative amount of funds the facility has received previously from the commission and other state sources, the value of any past and current federal or state tax credits, the facility’s contract price for energy and capacity, the prices received by similar facilities, the market value of the facility, and the likelihood that the award will make the facility competitive and self-sustaining within the 2007–2011 investment cycle. The commission shall use this evaluation to determine the value of an award to the public relative to other renewable energy investment alternatives. The commission shall compile its findings and report them to the Legislature in the reports prepared pursuant to Section 25748.

SEC. 6. Section 25746 of the Public Resources Code is amended to read:

25746. (a) One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with this chapter to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(b) If the commission provides funding for a regional accounting system to verify compliance with the renewable portfolio standard by retail sellers, pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code, the commission shall recover all costs from user fees.

SEC. 7. Section 25747 of the Public Resources Code is amended to read:

25747. (a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly
noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days’ written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter or Section 399.25 of the Public Utilities Code, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001–02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

(d) An award made pursuant to this chapter, the amount of the award, and the terms and conditions of the grant are public information.

SEC. 8. Section 25751 of the Public Resources Code is amended to read:

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

(1) Existing Renewable Resources Account.

(2) Emerging Renewable Resources Account.

(3) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:

(1) The administration of this article by the state.
(2) The state’s expenditures associated with the accounting system established by the commission pursuant to subdivision (b) of Section 399.25 of the Public Utilities Code.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.
(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance’s report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 9. Section 387 of the Public Utilities Code is repealed.

SEC. 10. Section 399.2.5 of the Public Utilities Code is amended to read:

399.2.5. (a) Notwithstanding Sections 1001 to 1013, inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities is necessary to the provision of electric service for purposes of Section 1003 if the commission finds that the new facility is reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(b) With respect to a transmission facility described in subdivision (a), the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include all of the following:

(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are reasonably necessary or appropriate to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.

(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.

(4) Providing assurance, prior to a determination of rate recovery by the Federal Energy Regulatory Commission (FERC) of those
costs that are subject to FERC jurisdiction, of the eligibility for
recovery in retail rates of any increase in transmission costs
incurred by an electrical corporation resulting from the construction
of the transmission facilities.
(5) Allowing recovery in retail rates of any increase in
transmission costs if the FERC does not approve recovery of those
costs in the rates that are subject to FERC jurisdiction after the
commission determines that the costs were reasonably and
prudently incurred.

(c) (1) The commission shall approve an advice letter seeking
assurance of cost recovery pursuant to paragraph (4) of subdivision
(b), if either of the following is true:
(A) The new transmission line or facility is an upgrade of an
existing transmission line or facility, or is a new facility within
either an existing transmission right-of-way or a transmission
corridor zone that has been designated by the Energy Commission
pursuant to Section 25331 of the Public Resources Code, and is
consistent with the priority transmission projects in the conceptual
transmission plan in the final Phase 3 report produced by the public
collaborative stakeholder planning process known as the
Renewable Energy Transmission Initiative (RETI).
(B) Not less than 50 percent of the planned use for the capacity
of the new transmission line or facility is for interconnecting
eligible renewable energy resources, as determined by the
Independent System Operator or an electrical corporation, and all
interconnection requests for that transmission line or facility are
for generation facilities that comply with the greenhouse gases
emission performance standard established pursuant to Chapter 3
(commencing with Section 8340) of Division 4.1.

(2) Approval of an advice letter pursuant to paragraph (1) is not
binding upon the commission in making its determination whether
or not to approve an application for a certificate of public
convenience and necessity pursuant to Chapter 5 (commencing
with Section 1001).

SEC. 11. Section 399.11 of the Public Utilities Code is
amended to read:
399.11. The Legislature finds and declares all of the following:
(a) In order to attain a target of generating 20 percent of total
retail sales of electricity in California from eligible renewable
energy resources by December 31, 2013, and 33 percent by
December 31, 2020, it is the intent of the Legislature that the commission and the Energy Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Achieving the renewables portfolio standard through the procurement of various electricity products from eligible renewable energy resources is intended to provide unique benefits to California, including all of the following, each of which independently justifies the program:

1. Displacing fossil fuel consumption within the state.

2. Adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service territory.

3. Reducing air pollution due to the reduced use of fossil fuels for electrical generation in the state.

4. Meeting the state’s climate change goals by reducing emissions of greenhouse gases associated with electrical generation.

5. Promoting stable retail rates for electric service.

6. Meeting the state’s need for a diversified and balanced energy generation portfolio.

7. Assistance with meeting the state’s resource adequacy requirements.

8. Contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief.

9. Implementing the state’s transmission and land-use planning activities related to development of eligible renewable energy resources.

(c) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the Energy Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(d) New and modified electric transmission facilities will be necessary to facilitate the state achieving its renewables portfolio standard targets.

(e) (1) Supplying electricity to California end-use customers that is generated by eligible renewable energy resources is necessary to improve California’s air quality and public health, and the commission shall ensure rates are just and reasonable, and are not significantly affected by the procurement requirements of
this article. This delivered electricity may be generated anywhere in the interconnected grid that includes many states, and areas of both Canada and Mexico.

(2) This article requires generating resources located outside of California, but able to supply that electricity to California end-use customers, to be treated identically to generating resources located within the state, without discrimination.

(3) California electrical corporations have already executed, and the commission has approved, power purchase agreements with eligible renewable energy resources located outside of California that will supply electricity to California end-use customers, and there are nearly 10,000 customers. These resources will fully count toward meeting the renewables portfolio standard procurement requirements. In addition, there are nearly 7,000 megawatts of additional proposed renewable energy resources located outside of California that are awaiting interconnection approval from the Independent System Operator. All of these resources—should, if procured, will count as eligible renewable energy resources under the renewables portfolio standard procurement requirements. that satisfy the portfolio content requirements of paragraph (1) of subdivision (c) of Section 399.16.

SEC. 12. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) “Conduit hydroelectric facility” means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) “Balancing authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

(c) “Balancing authority area” means the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance.

(d) “California balancing authority” is a balancing authority with control over a balancing authority area primarily located in
this state and operating for retail sellers and local publicly owned
electric utilities subject to the requirements of this article and
includes the Independent System Operator (ISO) and a local
publicly owned electric utility operating a transmission grid that
is not under the operational control of the ISO. A California
balancing authority is responsible for the operation of the
transmission grid within its metered boundaries which may not be
limited by the political boundaries of the State of California.

(e) “Eligible renewable energy resource” means an electrical
generating facility that meets the definition of a “renewable
electrical generation facility” in Section 25741 of the Public
Resources Code, subject to the following:

(1) (A) An existing small hydroelectric generation facility of
30 megawatts or less shall be eligible only if a retail seller or local
publicly owned electric utility owned or procured the electricity
from the facility as of December 31, 2005. A small hydroelectric
generation unit with a nameplate capacity not exceeding 40
megawatts that is operated as part of a water supply or conveyance
system serving the jurisdiction of a local publicly owned electric
utility is an eligible renewable energy resource if the retail seller
or local publicly owned electric utility owned or procured the
electricity from the facility as of December 31, 2005. A new
hydroelectric facility that commences generation of electricity
after December 31, 2005, is not an eligible renewable energy
resource if it will cause an adverse impact on instream beneficial
uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric
facility of 30 megawatts or less that commenced operation before
January 1, 2006, is an eligible renewable energy resource. A
conduit hydroelectric facility of 30 megawatts or less that
commences operation after December 31, 2005, is an eligible
renewable energy resource so long as it does not cause an adverse
impact on instream beneficial uses or cause a change in the volume
or timing of streamflow.

(C) A facility approved by the governing board of a local
publicly owned electric utility prior to June 1, 2010, for
procurement to satisfy renewable energy procurement obligations
adopted pursuant to former Section 387, shall be certified as an
eligible renewable energy resource by the Energy Commission
pursuant to this article, if the facility is a “renewable electrical
A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(f) “Procure” means to acquire through ownership or contract.

(g) “Procurement entity” means any person or corporation authorized by the commission to enter into contracts to procure eligible renewable energy resources on behalf of customers of a retail seller pursuant to subdivision (g) of Section 399.13.

(h) (1) “Renewable energy credit” means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section 399.25, that one unit of electricity was generated by an eligible renewable energy resource.

(2) “Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) (A) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission for each renewable energy technology, shall result in the creation of a renewable energy credit.

(B) No electricity generated by a small hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (A) of paragraph (1) of subdivision (e).

(C) No electricity generated by a conduit hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (e).

(D) No electricity generated by a facility engaged in the combustion of municipal solid waste shall result in the creation of
a renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (e).

(h) “Renewable energy public goods charge” means that portion of the nonbypassable system benefits charge required to be collected to fund renewable energy pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399), for an electrical corporation, and pursuant to Section 385 for a local publicly owned electric utility.

(i) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(j) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) “Retail seller” does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.
(k) “WECC” means the Western Electricity Coordinating Council of the North American Electric Reliability Corporation, or a successor to either corporation.

SEC. 13. Section 399.13 of the Public Utilities Code is amended and renumbered to read:

399.25. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (e) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers and local publicly owned electric utilities, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers and local publicly owned electric utilities, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with eligible renewable energy resources procured by a local publicly owned electric utility, if the Energy Commission determines that all of the conditions of Section 399.31 have been met.
SEC. 14. Section 399.13 is added to the Public Utilities Code, to read:

399.13. (a) (1) The commission shall direct each electrical corporation to annually prepare a renewable energy procurement plan that includes the matter in paragraph (5), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(2) Every electrical corporation that owns electrical transmission facilities shall annually prepare, as part of the Federal Energy Regulatory Commission Order 890 process, and submit to the commission, a report identifying any electrical transmission facility, upgrade, or enhancement that is reasonably necessary to achieve the renewable energy resources renewables portfolio standard procurement requirements of this article. Each report shall look forward at least five years and, to ensure that adequate investments are made in a timely manner, shall include a preliminary schedule when an application for a certificate of public convenience and necessity will be made, pursuant to Chapter 5 (commencing with Section 1001), for any electrical transmission facility identified as being reasonably necessary to achieve the renewable energy resources procurement requirements of this article. Each electrical corporation that owns electrical transmission facilities shall ensure that project specific interconnection studies are completed in a timely manner.

(3) The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

(A) The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible renewable energy resources.
resources located outside the state and within the WECC, and procurement of and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to deliver supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

(C) Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

(4) The commission shall adopt, by rulemaking, all of the following:

(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall take into account all of the following:

(i) Estimates of indirect costs associated with needed transmission investments and ongoing electrical corporation expenses resulting from integrating and operating eligible renewable energy resources.

(ii) The cost impact of procuring the eligible renewable energy resources on the electrical corporation’s electricity portfolio.

(iii) The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer’s experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be delivered supplied as required by the contract.

(iv) Workforce recruitment, training, and retention efforts, including the employment growth associated with the construction and operation of eligible renewable energy resources and goals for recruitment and training of women, minorities, and disabled veterans.

(B) Rules permitting retail sellers to apply, beginning January 1, 2014, excess procurement in one year to subsequent years compliance period to any subsequent compliance period. The rules
shall apply equally to all retail sellers. In determining the quantity of excess procurement during a compliance period, the commission shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than 10 years in duration and those electricity products meeting the portfolio content of paragraph (3) of subdivision (b) of Section 399.16.

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission’s approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(D) An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled. Nothing in this paragraph shall preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

(5) Consistent with the goal of increasing California’s reliance on eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Potential compliance delays related to the conditions described in paragraph (4) of subdivision (b) of Section 399.15.

(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

(D) A status update on the development schedule of all eligible renewable energy resources currently under contract.
(E) Consideration of mechanisms for price adjustments associated with the costs of key components for eligible renewable energy resource projects with online dates more than 24 months after the date of contract execution.

(F) An assessment of the risk that an eligible renewable energy resource will not be built, or that construction will be delayed, with the result that electricity will not be delivered as required by the contract.

(6) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.

(7) In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

(b) A retail seller may enter into a combination of long- and short-term contracts for delivery of electricity and associated renewable energy credits. The commission may authorize a retail seller to enter into a contract of less than 10 years’ duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years’ duration.

(c) The commission shall review and accept, modify, or reject each electrical corporation’s renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation.

(d) Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.
(e) The commission shall establish milestones in the development of the project to evaluate the potential for compliance with the adopted renewable energy resource procurement plan and a set of actions that will occur as a result of not meeting those milestones. These actions may include, but shall not be limited to, determining a cure period for failure to meet milestones, a suspense period on the contract online date for events beyond the developer’s control that cause a failure to meet milestones, allowing other developers that are prepared to go forward to move ahead of suspended contracts, and the forfeiture of deposits.

(f) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any retail seller that is not an electrical corporation that fails to meet the procurement targets established pursuant to Section 399.15.

(g) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of electricity products from eligible renewable energy resources to satisfy the retail seller’s renewables portfolio standard procurement requirements. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefitting from the procurement of eligible renewable energy resources.

(h) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission shall be deemed reasonable and prudent and shall be recoverable in rates.
(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 15. Section 399.14 of the Public Utilities Code is repealed.

SEC. 16. Section 399.14 is added to the Public Utilities Code, to read:

399.14. (a) (1) An electrical corporation may, pursuant to Chapter 5 (commencing with Section 1001), and in order to meet its unmet renewables portfolio standard procurement requirements, apply to the commission for approval to construct, own, and operate an eligible renewable energy resource.

(2) If the proposed eligible renewable energy resource complies with the requirements of subdivision (b), the commission shall approve an application filed pursuant to paragraph (1), until the commission has approved applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation’s anticipated retail sales by December 31, 2020, and thereafter.

(3) The commission may approve additional applications for eligible renewable energy resources once the commission has approved sufficient applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation’s anticipated retail sales by December 31, 2020, and thereafter.

(b) The commission shall not approve any application by an electrical corporation pursuant to subdivision (a) unless both of the following conditions are met:

(1) The eligible renewable energy resource utilizes a viable technology at a reasonable cost.

(2) The eligible renewable energy resource provides comparable or superior value to ratepayers when compared to then recent or contemporaneous solicitations for generation provided by eligible renewable energy resources.
(c) In approving any application by an electrical corporation for approval to construct, own, and operate an eligible renewable energy resource, the commission shall apply traditional cost-of-service ratemaking, including reasonableness review after construction is completed.

SEC. 17. Section 399.15 of the Public Utilities Code is repealed.

SEC. 18. Section 399.15 is added to the Public Utilities Code, to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity generated by products from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article.

(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:

(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources during for each of the following compliance periods:

(A) January 1, 2011, to December 31, 2012

(B) January 1, 2013 to December 31, 2016

(C) January 1, 2017, to December 31, 2020

(2) (A) No later than January 1, 2012, the commission shall establish the quantity of electricity generated by products from eligible renewable energy resources to be procured by the retail seller for each compliance period. These quantities shall be established in the same manner for all retail sellers and result in the same percentages used to establish compliance period quantities for all retail sellers.

(B) In establishing quantities for the compliance period from January 1, 2011, to December 31, 2012, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales in each year. For the following compliance periods, the quantities shall reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity generated by products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December
31, 2020. The commission shall require retail sellers to procure not less than 33 percent of retail sales of electricity-produced products from eligible renewable energy resources in all subsequent years.

(C) Retail sellers shall be obligated to procure no less than the quantities associated with all intervening years by the end of each compliance period. Deficits associated with any compliance period shall not be added to any future compliance period. Retail sellers shall not be required to demonstrate a specific quantity of procurement for any individual intervening year.

(3) The commission shall not require the procurement of eligible renewable energy resources in excess of the quantities identified in paragraph (2). A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.

(4) Only for purposes of establishing the renewables portfolio standard procurement requirements of paragraph (1) and determining the quantities pursuant to paragraph (2), the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code in the calculation of retail sales by an electrical corporation.

(5) The commission may—allow a retail seller to delay compliance with a renewables portfolio standard procurement requirement waive the imposition of penalties associated with the renewables portfolio standard procurement requirements of a retail seller pursuant to paragraphs (1) and (2), or a portion thereof, if it finds that the retail seller has demonstrated that any of the following conditions are beyond the control of the retail seller and will prevent timely compliance:

(A) There is inadequate transmission capacity to allow for sufficient electricity to be delivered from proposed eligible renewable energy resource projects using the current operational protocols of the Independent System Operator (ISO). The commission shall consult with the ISO in making its findings relative to the existence of this condition. In making its findings relative to the existence of this condition with respect to a retail seller that owns transmission lines, the commission shall consider both of the following:
(i) Whether the retail seller has undertaken, in a timely fashion, all reasonable measures to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources to its retail customers.

(ii) Whether the retail seller has taken all reasonable operational measures, as verified by the ISO, to maximize deliveries of electricity from eligible renewable energy resources in advance of transmission availability.

(B) Unanticipated permitting, interconnection, or other related delays for procured eligible renewable energy resource projects, or there is unforeseen circumstances that have led to an insufficient supply of delivered electricity from eligible renewable energy resources available to the retail seller. In making a finding that this condition prevents timely compliance, the commission shall consider whether the retail seller has done all of the following:

(i) Prudently managed portfolio risks, including relying on a sufficient number of viable projects.

(ii) Sought to develop its own eligible renewable energy resources.

(iii) Procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to compensate for foreseeable delays or insufficient supply.

(iv) Taken all reasonable measures, consistent with this article, to procure under the control of the retail seller, to remove impediments related to a compliance deficit, including the procurement of cost-effective distributed generation and allowable unbundled renewable energy credits.

(C) Unanticipated curtailment of eligible renewable energy resources necessary to address the needs of a balancing authority.

(6) The commission may not approve any request to delay a compliance obligation for which it has already granted a delay unless a retail seller presents evidence that it has made material progress in reducing its compliance deficiency and has identified and taken all reasonable actions under its control to pursue additional options to comply with the delayed interim procurement obligation and remove impediments that are related to its delay.

(6) If the commission waives the imposition of penalties for a retail seller’s failure to achieve a procurement requirement
pursuant to paragraphs (1) and (2), the commission shall establish additional reporting requirements on the retail seller to demonstrate that all reasonable actions under the control of the retail seller are taken in each of the intervening years sufficient to satisfy future procurement requirements.

(7) The commission shall not waive the imposition of penalties associated with failure to satisfy a procurement requirement pursuant to paragraphs (1) and (2) unless the retail seller presents evidence that it has made material progress towards meeting the applicable renewables portfolio standard procurement requirement and has taken all reasonable actions under its control to remove impediments to full compliance.

(8) If a retail seller fails to procure sufficient eligible renewable energy resources to comply with a renewables portfolio standard procurement requirement pursuant to paragraphs (1) and (2) and fails to obtain an order from the commission authorizing a compliance delay waiving the imposition of penalties pursuant to paragraph (5), the commission shall exercise its penalty authority pursuant to Section 2113.

(9) If the commission either waives the imposition of penalties or assesses penalties pursuant to this section, deficits associated with the compliance period shall not be added to a future compliance period.

(c) The commission shall establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. In establishing this limitation, the commission shall rely on the following:

(1) The most recent renewable energy procurement plan.

(2) Procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources.

(3) The potential that some planned resource additions may be delayed or canceled.

(d) In developing the limitation pursuant to subdivision (c), the commission shall ensure all of the following:

(1) The limitation is set at a level that prevents disproportionate rate impacts.
(2) The costs of all procurement credited toward achieving the renewables portfolio standard are counted towards the limitation.

(3) Procurement expenditures do not include any indirect expenses, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, transmission upgrades, or the costs associated with relicensing any utility-owned hydroelectric facilities.

(e) (1) No later than January 1, 2016, the commission shall prepare a report to the Legislature assessing whether each electrical corporation can achieve a 33-percent renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the adopted cost limitations. If the commission determines that it is necessary to change the limitation for procurement costs incurred by any electrical corporation after that date, it may propose a revised cap consistent with the criteria in subdivisions (c) and (d). The proposed modifications shall take effect no earlier than January 1, 2017.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without increasing ratepayer costs relative to the procurement of conventional energy resources, including the cost of mitigating emissions of greenhouse gases associated with conventional generation.

(g) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall
do both of the following within 60 days of making that
determination:
(A) Investigate and identify the reasons why the electrical
corporation may exceed its annual cost limitation.
(B) Notify the appropriate policy and fiscal committees of the
Legislature that the electrical corporation may exceed its cost
limitation, and include the reasons why the electrical corporation
may exceed its cost limitation.
(h) The establishment of a renewables portfolio standard shall
not constitute implementation by the commission of the federal
Public Utility Regulatory Policies Act of 1978 (Public Law
95-617).
SEC. 19. Section 399.16 of the Public Utilities Code is
amended and renumbered to read:
399.21. (a) The commission, by rule, shall authorize the use
of renewable energy credits to satisfy the renewables portfolio
standard procurement requirements established pursuant to this
article, subject to the following conditions:
(1) Prior to authorizing any renewable energy credit to be used
toward satisfying the renewables portfolio standard procurement
requirements, the commission and the Energy Commission shall
conclude that the tracking system established pursuant to
subdivision (c) of Section 399.25, is operational, is capable of
independently verifying that the electricity earning the
credit is generated by an eligible renewable energy resource and
is delivered to the retail seller, and can ensure that renewable
energy credits shall not be double counted by any seller of
electricity within the service territory of the WECC.
(2) Each renewable energy credit shall be counted only once
for compliance with the renewables portfolio standard of this state
or any other state, or for verifying retail product claims in this state
or any other state.
(3) All revenues received by an electrical corporation for the
sale of a renewable energy credit shall be credited to the benefit
of ratepayers.
(4) No renewable energy credits shall be created for electricity
generated pursuant to any electricity purchase contract with a retail
seller or a local publicly owned electric utility executed before
January 1, 2005, unless the contract contains explicit terms and
conditions specifying the ownership or disposition of those credits.
Deliveries—Procurement under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.25 and included in the quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(5) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries Procurement under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count toward the renewables portfolio standard obligations of the purchasing retail seller.

(6) No renewable energy credit shall be eligible for compliance with a renewables portfolio standard procurement requirement after 18 months from the initial date of generation of the associated electricity. A renewable energy credit is used for compliance when the retail seller or local publicly owned electric utility irrevocably retires the credit within the tracking system established pursuant to subdivision (c) of Section 399.25, unless associated with electricity generated during the same compliance period in which the credit is claimed by the retail seller or local publicly owned electric utility.

(7) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

SEC. 20. Section 399.16 is added to the Public Utilities Code, to read:

399.16. (a) Various electricity products from eligible renewable energy resources located within the WECC transmission network service territory shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity products may be differentiated by their impacts on the operation of the grid in supplying electricity, as well as, meeting the requirements of this article.

(b) Consistent with the goals of procuring the least-cost and best-fit electricity products from eligible renewable energy
resources that meet project viability principles approved by the commission, eligible renewable energy resources providing adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 399.13 and that provide the benefits set forth in Section 399.11 shall be procured to meet the following balanced portfolio: a balanced portfolio of eligible renewable energy resources shall be procured consisting of the following portfolio content categories:

(1) Eligible renewable energy resource electricity products that meet either of the following criteria:

(A) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource on an hourly or within-the-hour basis into a California balancing authority without substituting electricity from another source. Any fraction of the electricity generated by an eligible renewable energy resource satisfying this criterion shall count toward this product category.

(B) Have an agreement with a California balancing authority that allows the balancing authority to dynamically transfer the electricity product. The use of another source to provide real-time ancillary services required to maintain an hourly or sub-hourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category. Compliance with this portfolio content category may be verified by demonstrating all of the following:

(i) The eligible renewable energy resource is scheduled into a California balancing authority.

(ii) The hourly metered output of the generator matches the import schedules of electricity flow from the generator.

(iii) The schedule includes paths through the balancing authority area in which the generating resource is located, and if applicable, through any intermediate balancing authority areas, into the California balancing authority.

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.

(2) Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity—procured
through a contract of not less than 10 years duration, or ownership, using substitute electricity to balance schedules meeting the requirements of Section 8341, and scheduled into a California balancing authority.

(3) Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2), including unbundled renewable energy credits.

(c) In order to achieve the balanced portfolio pursuant to subdivision (b) 

A balanced portfolio, all retail sellers shall be subject to the following requirements meet the following requirements for all procurement credited towards each compliance period:

(1) Not less than 75 percent of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b).

(2) Not more than 10 percent of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (3) of subdivision (b).

(3) Any renewable energy resources contracts executed on or after June 1, 2010, not subject to the limitations of paragraph (1) or (2), shall meet the product content requirements of paragraph (2) of subdivision (b).

(d) A contract for an eligible renewable energy resource that is any contract originally executed prior to June 1, 2010, shall count in full towards the procurement requirements established by the commission pursuant to Section 399.15, if both all of the following conditions are met:

(1) The resource was an eligible renewable energy resource pursuant to this article as of that date.

(1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.

(2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.

(3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the capacity or expected quantities or electricity, or substitute a different renewable energy resource.
The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

SEC. 21. Section 399.17 of the Public Utilities Code is amended to read:

399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California and that either serves retail end-use customers outside California or that is located in a control area that is not under the operational balancing authority of the Independent System Operator or other California balancing authority and receives the majority of its electrical requirements from generating facilities located outside of California.

(b) For an electrical corporation with 60,000 or fewer customer accounts in California and that either serves retail end-use customers outside California, or that is located in a control area that is not under the operational control balancing authority of the Independent System Operator or other California balancing authority and receives the majority of its electrical requirements from generating facilities located outside of California, an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the WECC transmission system, provided all of the following conditions are met:

(1) The electricity generated by the facility is procured and allocated by the electrical corporation on behalf of its California customers, and is not used to fulfill renewable energy procurement requirements in other states.

(2) The electrical corporation participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.25.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the procurement requirements of this article.

(c) The commission shall determine the procurement requirements for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, or that is located in a control area that is not under the balancing authority of the Independent System Operator or other California balancing authority and receives the majority of its electricity product requirements from generating facilities
located outside the state, as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year compliance period.

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, or 399.13, 399.14, and 399.25, as modified by this section.

(e) Procurement and administrative costs associated with long-term contracts for eligible renewable energy resources pursuant to this article entered into by an electrical corporation with 60,000 or fewer customer accounts in California that either serves retail end-use customers outside California, or that is located in a control area that is not under the operational control of the Independent System Operator and receives the majority of its electrical requirements from generating facilities located outside of California, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation’s California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation. shall be subject to the limitation established by the commission pursuant to subdivision (c) of Section 399.15.

SEC. 22. Section 399.18 is added to the Public Utilities Code, to read:

399.18. The commission, in consultation with the Energy Commission, shall report to the Legislature by January 1 of every even-numbered year on all of the following:

(a) The progress and status of procurement activities by each retail seller.

(b) The status of permitting and siting eligible renewable energy resources and transmission facilities necessary to deliver the supply electricity generated to load, including the time taken to permit each eligible renewable energy resource and transmission line or upgrade, explanations of failures to meet permitting milestones,
and recommendations for improvements to expedite permitting
and siting processes.

(c) The projected ability of each electrical corporation to meet
the renewables portfolio standard procurement requirements under
the cost limitations in subdivision (d) of Section 399.15 and any
recommendations for revisions of those cost limitations.

(d) Any barriers to, and policy recommendations for, achieving
the renewables portfolio standard pursuant to this article.

SEC. 23. Section 399.26 is added to the Public Utilities Code,
to read:

399.26. (a) In order for the state to meet the requirements of
the California Renewables Portfolio Standard Program,
substantially increased amounts of electricity generated by eligible
renewable energy resources must be integrated with, and
interconnected to, the transmission grid that is either owned by,
or under the operational control of, the local publicly owned
electric utilities and the transmission grid that is under the
operational control of the Independent System Operator.

(b) The Independent System Operator and the balancing
authority of each area in California shall do both of the following:
(1) Work cooperatively to integrate and interconnect eligible
renewable energy resources to the transmission grid by the most
efficient means possible with the goal of minimizing the impact
and cost of new transmission needed to meet both reliability needs
and the renewables portfolio standard procurement requirements.
(2) Accomplish the requirements of paragraph (1) in a manner
that respects the ownership, business, and dispatch models for
transmission facilities owned by electrical corporations, local
publicly owned electric utilities, joint powers agencies, and
merchant transmission companies.

(c) The Independent System Operator shall seek any approvals
from the Federal Energy Regulatory Commission that are necessary
to accomplish the goals and requirements of this article.

(d) In order to maintain electric service reliability and to
minimize the construction of fossil fuel electrical generation
capacity to support the integration of intermittent renewable
electrical generation into the electrical grid, by July 1, 2011, the
Energy Commission shall update its previously conducted studies
to determine the effective load carrying capacity
of wind and solar energy resources on the California electrical
grid. The commission shall use those effective load carrying capacity values in establishing the contribution of wind and solar energy resources toward meeting the resource adequacy requirements established pursuant to Section 380.

SEC. 24. Section 399.30 is added to the Public Utilities Code, to read:

399.30. (a) In order to fulfill unmet long-term generation resource needs, each local publicly owned electric utility shall adopt and implement a renewable energy resources procurement plan that requires the utility to procure a minimum quantity of electricity generated by products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of total kilowatthours sold to the utility’s retail end-use customers, each calendar year compliance period, to achieve the targets of subdivision (b) (c).

(b) The governing board shall implement procurement targets for a local publicly owned electric utility that require the utility to procure the following minimum percentages of eligible renewable energy resources in the following years, and continue to procure those percentages in subsequent years: a minimum quantity of eligible renewable energy resources for each of the following compliance periods:

(1) Until December 31, 2011, the same percentage as actually achieved by the utility in 2009.
(2) Twenty percent by December 31, 2012.
(3) Twenty-five percent by December 31, 2016.
(4) Thirty-three percent by December 31, 2020.

(c) (1) A local publicly owned electric utility shall be subject to the procurement limitations in Section 399.16 to the same extent as a retail seller.
(2) A local publicly owned electric utility may adopt rules permitting the utility to apply excess procurement in one year to subsequent years in the same manner as allowed for retail sellers pursuant to Section 399.13.

(1) January 1, 201, to December 31, 2013, inclusive.
(2) January 1, 2014, to December 31, 2016, inclusive.
(3) January 1, 2017, to December 31, 2020, inclusive.

(c) The governing board of a local publicly owned electric utility shall ensure all of the following:
(1) The quantities of eligible renewable energy resources to be procured for the compliance period from January 1, 2011, to December 31, 2013, inclusive, are equal to an average of 20 percent of retail sales.

(2) The quantities of eligible renewable energy resources to be procured for all other compliance periods reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020.

The local governing board shall require the local publicly owned utilities to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.

(3) The procurement requirements of Section 399.16 apply to the local publicly owned electric utility to the same extent as to a retail seller.

(d) The governing board of a local publicly owned electric utility may adopt the following measures:

(1) Rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods in the same manner as allowed for retail sellers pursuant to Section 399.13.

(2) Conditions that allow for delaying timely compliance consistent with subdivision (b) of Section 399.15.

(3) Cost limitations for procurement expenditures consistent with subdivision (c) of Section 399.15.

(e) The governing board of the local publicly owned electric utility shall adopt a program for the enforcement of this article on or before January 1, 2012. The program shall be adopted at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days’ notice shall be given to the public of any meeting held for purposes of adopting the program. Not less than 10 days’ notice shall be given to the public before any meeting is held to make a substantive change to the program.

(f) (1) Each local publicly owned electric utility shall annually post notice, in accordance with Chapter 9 (commencing with
Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, whenever its governing body will deliberate in public on its renewable energy resources procurement plan.

(2) Contemporaneous with the posting of the notice of a public meeting to consider the renewable energy resources procurement plan, the local publicly owned electric utility shall notify the Energy Commission of the date, time, and location of the meeting in order to enable the Energy Commission to post the information on its Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to this information.

(3) Upon distribution to its governing body of information related to its renewable energy resources procurement status and future plans, for its consideration at a noticed public meeting, the local publicly owned electric utility shall make that information available to the public and shall provide the Energy Commission with an electronic copy of the documents for posting on the Energy Commission’s Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

(g) A local publicly owned electric utility shall annually submit to the Energy Commission documentation regarding eligible renewable energy resources procurement contracts that it executed during the prior year, as follows:

(1) A description of the eligible renewable energy resource, including the duration of the contract or electricity purchase agreement.

(2) A description and identification of the electrical generating facility providing the eligible renewable energy resource under the contract.

(3) An estimate of the percentage increase in the utility’s total retail sales of electricity from eligible renewable energy resources that will result from the contract.

(h) A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division
Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.

(i) For a local publicly owned electric utility that was in existence on or before January 1, 2009, that provides retail electric service to 15,000 or fewer customer accounts in California, and is interconnected to a balancing authority located outside this state but within the WECC, an eligible renewable energy resource includes a facility that is located outside California that is connected to the WECC transmission system, if all of the following conditions are met:

1. The electricity generated by the facility is procured by the local publicly owned electric utility, is delivered to the balancing authority area in which the local publicly owned electric utility is located, and is not used to fulfill renewable energy procurement requirements of other states.

2. The local publicly owned electric utility participates in, and complies with, the accounting system administered by the Energy Commission pursuant to Article 4.

3. The Energy Commission verifies that the electricity generated by the facility is eligible to meet the renewables portfolio standard procurement requirements.

(j) Notwithstanding subdivision (a), for a local publicly owned electric utility that is a joint powers authority of districts established pursuant to state law on or before January 1, 2005, that furnish electric services other than to residential customers, and is formed pursuant to the Irrigation District Law (Division 11 (commencing with Section 20500) of the Water Code), the percentage of total kilowatthours sold to the district’s retail end-use customers, upon which the renewables portfolio standard procurement requirements in subdivision (b) are calculated, shall be based on the average retail sales over the previous three years. If the authority has not furnished electric service for seven years, then the calculation shall be based on average retail sales over the number of completed years during which the authority has provided electric service.
(k) A local publicly owned electric utility in a city and county that only receives greater than 67 percent of its electricity sources from hydroelectric generation located within the state that it owns and operates, and that does not meet the definition of a “renewable electrical generation facility” pursuant to Section 25741 of the Public Resources Code, shall be required to procure eligible renewable energy resources, including renewable energy credits, to meet only the electricity demands unsatisfied by its hydroelectric generation in any given year, in order to satisfy its renewable energy procurement requirements.

(l) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the Energy Commission, all of the following:

1. Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.
2. The resource mix used to serve its customers by energy source.
3. The utility’s status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility’s progress toward attaining the standard following implementation.

(m) A local publicly owned electric utility shall retain discretion over all of the following:

1. The mix of eligible renewable energy resources procured or owned by the utility and those additional generation resources procured or owned by the utility for purposes of ensuring resource adequacy and reliability.
2. The prices paid by the utility for electricity generated by eligible renewable energy resources.
3. The reasonable costs incurred by the utility for eligible renewable energy resources owned by the utility.

(n) On or before July 1, 2011, the Energy Commission shall adopt regulations specifying procedures for enforcement of this article. The regulations shall include a public process under which the Energy Commission may issue a notice of violation and
correction against a local publicly owned electric utility for failure
to comply with this article, and for referral of violations to the
State Air Resources Board for penalties pursuant to subdivision
(o). The regulations shall include provisions for determining
the reasonableness of any cost containment mechanism
implemented by local publicly owned electric utilities.

(o) (1) Upon a determination by the Energy Commission that
a local publicly owned electric utility has failed to comply with
this article, the Energy Commission shall refer the failure to comply
with this article to the State Air Resources Board which may
impose penalties to enforce this article consistent with Part 6
(commencing with Section 38580) of Division 25.5 of the Health
and Safety Code. Any penalties imposed shall be comparable to
those adopted by the commission for noncompliance by retail
sellers.

(2) If Division 25.5 (commencing with Section 38500) of the
Health and Safety Code is suspended or repealed, the State Air
Resources Board may take action to enforce this article on local
publicly owned electric utilities consistent with Section 41513 of
the Health and Safety Code, and impose penalties on a local
publicly owned electric utility consistent with Article 3
(commencing with Section 42400) of Chapter 4 of Part 4 of, and
Chapter 1.5 (commencing with Section 43025) of Part 5 of,
Division 26 of the Health and Safety Code.

(3) For the purpose of this subdivision, this section is an
emissions reduction measure pursuant to Section 38580 of the
Health and Safety Code.

(4) If the State Air Resources Board has imposed a penalty upon
a local publicly owned electric utility for the utility’s failure to
comply with this article, the State Air Resources Board shall not
impose an additional penalty for the same infraction, or the same
failure to comply, with any renewables procurement requirement
imposed upon the utility pursuant to the California Global Warming
Solutions Act of 2006 (Division 25.5 (commencing with Section

(5) Any penalties collected by the State Air Resources Board
pursuant to this article shall be deposited in the Air Pollution
Control Fund and, upon appropriation by the Legislature, shall be expended for reducing emissions of air pollution or greenhouse gases within the same geographic area as the local publicly owned electric utility.

(p) The commission has no authority or jurisdiction to enforce any of the requirements of this article on a local publicly owned electric utility.

SEC. 25. Section 399.31 is added to the Public Utilities Code, to read:

399.31. A retail seller may procure renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, for purposes of compliance with the renewables portfolio standard requirements, if both of the following conditions are met:

(a) The local publicly owned electric utility has adopted and implemented a renewable energy resources procurement plan that complies with the renewables portfolio standard adopted by the Energy Commission pursuant to subdivision (f) of Section 399.25.

(b) The local publicly owned electric utility is procuring sufficient eligible renewable energy resources to satisfy the target standard, and will not fail to satisfy the target standard in the event that the renewable energy credit is sold to the retail seller.

SEC. 26. Section 454.5 of the Public Utilities Code is amended to read:

454.5. (a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation’s proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of electricity for its retail customers, consistent with its obligation to serve. After the commission’s adoption of a procurement plan, the commission shall allow not less than 60 days before the electrical corporation resumes procurement pursuant to this section.
An electrical corporation’s proposed procurement plan shall include, but not be limited to, all of the following:

1. An assessment of the price risk associated with the electrical corporation’s portfolio, including any utility-retained generation, existing power purchase and exchange contracts, and proposed contracts or purchases under which an electrical corporation will procure electricity, electricity demand reductions, and electricity-related products and the remaining open position to be served by spot market transactions.

2. A definition of each electricity product, electricity-related product, and procurement related financial product, including support and justification for the product type and amount to be procured under the plan.

3. The duration of the plan.

4. The duration, timing, and range of quantities of each product to be procured.

5. A competitive procurement process under which the electrical corporation may request bids for procurement-related services, including the format and criteria of that procurement process.

6. An incentive mechanism, if any incentive mechanism is proposed, including the type of transactions to be covered by that mechanism, their respective procurement benchmarks, and other parameters needed to determine the sharing of risks and benefits.

7. The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission’s review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.

8. Procedures for updating the procurement plan.

9. A showing that the procurement plan will achieve the following:

   A) The electrical corporation shall, in order to fulfill its unmet resource needs, procure resources from eligible renewable energy resources in an amount sufficient to meet its procurement requirements pursuant to the California Renewables Portfolio Act.
Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3).

(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products.

(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

(10) The electrical corporation’s risk management policy, strategy, and practices, including specific measures of price stability.

(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.

(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation’s procurement plan. The commission’s review shall consider each electrical corporation’s individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation’s creditworthiness or would lead to a deterioration of an electrical corporation’s creditworthiness:

(1) A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical
corporation’s performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

(1) Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation’s actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until
January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation’s actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

(4) Moderate the price risk associated with serving its retail customers, including the price risk embedded in its long-term supply contracts, by authorizing an electrical corporation to enter into financial and other electricity-related product contracts.

(5) Provide for just and reasonable rates, with an appropriate balancing of price stability and price level in the electrical corporation’s procurement plan.

(e) The commission shall provide for the periodic review and prospective modification of an electrical corporation’s procurement plan.

(f) The commission may engage an independent consultant or advisory service to evaluate risk management and strategy. The reasonable costs of any consultant or advisory service is a reimbursable expense and eligible for funding pursuant to Section 631.

(g) The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation’s proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

(h) Nothing in this section alters, modifies, or amends the commission’s oversight of affiliate transactions under its rules and decisions or the commission’s existing authority to investigate and penalize an electrical corporation’s alleged fraudulent activities,
or to disallow costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds. Nothing in this section expands, modifies, or limits the State Energy Resources Conservation and Development Commission’s existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

(i) An electrical corporation that serves less than 500,000 electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation’s procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation’s procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

SEC. 27. Article 11 (commencing with Section 910) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 11. Reports

910. (a) The commission shall, on an annual basis by February 1 of each year, prepare and submit to the policy and fiscal committees of the Legislature a written report summarizing the following information:

(1) All electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, as defined in Section 399.12, including direct procurement costs for
eligible renewable energy resources and renewable energy credits, administrative expenses for procurement, expenses incurred to ensure a reliable supply of electricity, and expenses for upgrades to the electrical transmission and distribution grid necessary to the delivery of electricity from eligible renewable energy resources to load.

(2) All cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard.

(3) All costs incurred by electrical corporations for incentives for distributed and renewable generation, including the self-generation incentive program, the California Solar Initiative, and net energy metering.

(4) All cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed and renewable generation.

(5) All renewable, fossil fuel, and nuclear procurement costs, research, study, or pilot program costs, or other program costs for which an electrical corporation is seeking recovery in rates, that is pending determination or approval by the commission.

(6) The decision number for each decision of the commission of recovery in rates of costs incurred by an electrical corporation since the preceding report.

(7) Any change in the electrical load serviced by an electrical corporation since the preceding report.

(8) The efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce, including the number of new employees hired by the electrical corporation for purposes of implementing the requirements of Article 16 (commencing with Section 399.11) of Chapter 2.3, the goals adopted by the electrical corporation for increasing women, minority, and disabled veterans trained or hired for purposes of implementing the requirements of Article 16 (commencing with Section 399.11) of Chapter 2.3, and, to the extent information is available, the number of new employees hired and the number of women, minority, and disabled veterans trained or hired by persons or corporations owning or operating eligible renewable energy resources under contract with an electrical corporation. This paragraph does not provide the
commission with authority to engage in, regulate, or expand its
authority to include, workforce recruitment or training.
(b) The commission may combine the information required by
this section with the reports prepared pursuant to Article 16
(commencing with Section 399.11) of Chapter 2.3.
SEC. 28. Section 1005.1 is added to the Public Utilities Code,
to read:
1005.1. (a) The commission shall issue a decision on an
application for a certificate within 18 months of the date of filing
of the completed application, when all of the following are true:
(1) The application is for a certificate for building or upgrading
an electrical transmission line that the commission finds necessary
to provide transmission to load centers for electricity generated in
a high priority renewable energy zone or is reasonably necessary
to facilitate achievement of the renewables portfolio standard
established in Article 16 (commencing with Section 399.11) of
Chapter 2.3.
(2) The commission has considered all of the following:
(A) The utilization of rights-of-way by upgrading existing
transmission facilities instead of building new transmission
facilities, where technically and economically justifiable.
(B) The expansion of existing rights-of-way, if technically and
economically feasible, when construction of new transmission
lines is required.
(C) The creation of new rights-of-way when justified by
environmental, technical, and economic reasons.
(D) The availability of cost-effective alternatives to transmission,
such as energy efficiency measures and distributed generation.
(3) The commission has not expressly found any of the
following:
(A) That the investment is not reasonable and necessary to
maintain or enhance reliability of the transmission grid.
(B) That the building or upgrading of the electrical transmission
line will not maintain or enhance efficient use of the transmission
grid.
(C) That the transmission line fails to meet other applicable
standards and requirements for approval and construction.
(b) An extension of time may be granted by the commission if
it finds the extension is necessary for completion of review
pursuant to the California Environmental Quality Act (Division
13 (commencing with Section 21000) of the Public Resources
Code).

SEC. 29. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
certain costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.

With respect to certain other costs, no reimbursement is required
by this act pursuant to Section 6 of Article XIII B of the California
Constitution because a local agency or school district has the
authority to levy service charges, fees, or assessments sufficient
to pay for the program or level of service mandated by this act,
within the meaning of Section 17556 of the Government Code.

SEC. 30. The sum of three hundred twenty-two thousand
dollars ($322,000) is hereby appropriated from the Public Utilities
Commission Utilities Reimbursement Account to the Public
Utilities Commission for additional staffing to identify, review,
and approve transmission lines reasonably necessary or appropriate
to facilitate achievement of the renewables portfolio standard
established in Article 16 (commencing with Section 399.11) of
Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

CORRECTIONS:

Text—Pages 11, 32, 33, and 39.